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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/501,423	07/13/2004	Johannes Jacobus Franciscus Geijtenbeek	NL 020024	9929
24737	7590 09/14/2006		EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			HO, BINH VAN	
P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			ART UNIT	PAPER NUMBER
			2163	
			DATE MAILED: 09/14/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

## Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/501,423	GEIJTENBEEK ET AL.		
Examiner	Art Unit		
Binh V. Ho	2163		

	Binh V. Ho	2163	
The MAILING DATE of this communication appe	ars on the cover sheet with the	correspondence add	ress
THE REPLY FILED <u>31 August 2006</u> FAILS TO PLACE THIS AF			
1.  The reply was filed after a final rejection, but prior to or on this application, applicant must timely file one of the follow places the application in condition for allowance; (2) a No a Request for Continued Examination (RCE) in compliance time periods:	the same day as filing a Notice of ving replies: (1) an amendment, at tice of Appeal (with appeal fee) in	Appeal. To avoid aba fidavit, or other evider compliance with 37 C	nce, which FR 41.31; or (3)
a) The period for reply expires 3 months from the mailing date b) The period for reply expires on: (1) the mailing date of this A no event, however, will the statutory period for reply expire is Examiner Note: If box 1 is checked, check either box (a) or TWO MONTHS OF THE FINAL REJECTION. See MEDION.	dvisory Action, or (2) the date set forth ater than SIX MONTHS from the mailin (b). ONLY CHECK BOX (b) WHEN TH 06.07(f).	ng date of the final reject IE FIRST REPLY WAS F	ion. ILED WITHIN
Extensions of time may be obtained under 37 CFR 1.136(a). The date have been filed is the date for purposes of determining the period of ex under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the set forth in (b) above, if checked. Any reply received by the Office later may reduce any earned patent term adjustment. See 37 CFR 1.704(b) NOTICE OF APPEAL	tension and the corresponding amoun shortened statutory period for reply ori than three months after the mailing d	t of the fee. The appropr ginally set in the final Off ate of the final rejection,	iate extension fee ice action; or (2) as even if timely filed,
<ol> <li>The Notice of Appeal was filed on A brief in comp filing the Notice of Appeal (37 CFR 41.37(a)), or any exte a Notice of Appeal has been filed, any reply must be filed</li> </ol>	nsion thereof (37 CFR 41.37(e)), t	o avoid dismissal of th	ns of the date of ne appeal. Since
<u>AMENDMENTS</u>			
<ol> <li>The proposed amendment(s) filed after a final rejection,</li> <li>They raise new issues that would require further co</li> <li>They raise the issue of new matter (see NOTE below)</li> </ol>	nsideration and/or search (see N0 w);	OTE below);	
(c) They are not deemed to place the application in befappeal; and/or			the issues for
(d) They present additional claims without canceling a NOTE: <u>See Continuation Sheet</u> . (See 37 CFR 1.1		ejected claims.	
4. The amendments are not in compliance with 37 CFR 1.1		ompliant Amendment	(PTOL-324).
5. Applicant's reply has overcome the following rejection(s)		• <b>.</b>	( , , , , , , , , , , , , , , , , , , ,
<ol> <li>Newly proposed or amended claim(s) would be all non-allowable claim(s).</li> </ol>	llowable if submitted in a separate		
7. For purposes of appeal, the proposed amendment(s): a) how the new or amended claims would be rejected is pro The status of the claim(s) is (or will be) as follows: Claim(s) allowed:	☑ will not be entered, or b) ☐ w vided below or appended.	rill be entered and an	explanation of
Claim(s) objected to: Claim(s) rejected: 1-15 and 20-22.			
Claim(s) withdrawn from consideration:  AFFIDAVIT OR OTHER EVIDENCE			
<ol> <li>The affidavit or other evidence filed after a final action, but because applicant failed to provide a showing of good an was not earlier presented. See 37 CFR 1.116(e).</li> </ol>	d-sufficient reasons why the affida	avit or other evidence	s necessary and
<ol> <li>The affidavit or other evidence filed after the date of filing entered because the affidavit or other evidence failed to showing a good and sufficient reasons why it is necessar</li> </ol>	overcome <u>all</u> rejections under app y and was not earlier presented.	eal and/or appellant fa See 37 CFR 41.33(d)(	ils to provide a (1).
10. ☐ The affidavit or other evidence is entered. An explanation REQUEST FOR RECONSIDERATION/OTHER	on of the status of the claims after	entry is below or attac	hed.
11. The request for reconsideration has been considered but	ut does NOT place the application	in condition for allowa	nce because:
<ul> <li>12. ☐ Note the attached Information Disclosure Statement(s).</li> <li>13. ☐ Other:</li> </ul>	(PTO/SB/08) Paper No(s)		

## Continuation Sheet (PTO-303)

Continuation of 3. NOTE: Response to the argument regarding relative term of "close to the top", the term is indefinite since it is unclear how close is close to. The Applicant states the term has defined in the specification as "anywhere in the space from the upper electrode to the top". However, the upper electrode and its location have not been defined in the claim. In addition, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Similarly, the term of "aspect ratio greater than 3" is indefinite because is not clear because it does not specify what kind of ratio is (etc. diameter, length, width, power, current, voltage ... etc). Note that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

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